

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANDREW CORZO, SIA HENRY, ALEXANDER
LEO-GUERRA, MICHAEL MAERLENDER,
BRANDON PIYEVSKY, BENJAMIN SHUMATE,
BRITTANY TATIANA WEAVER, and
CAMERON WILLIAMS, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

BROWN UNIVERSITY, CALIFORNIA
INSTITUTE OF TECHNOLOGY, UNIVERSITY
OF CHICAGO, THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW YORK,
CORNELL UNIVERSITY, TRUSTEES OF
DARTMOUTH COLLEGE, DUKE UNIVERSITY,
EMORY UNIVERSITY, GEORGETOWN
UNIVERSITY, THE JOHNS HOPKINS
UNIVERSITY, MASSACHUSETTS INSTITUTE
OF TECHNOLOGY, NORTHWESTERN
UNIVERSITY, UNIVERSITY OF NOTRE DAME
DU LAC, THE TRUSTEES OF THE
UNIVERSITY OF PENNSYLVANIA, WILLIAM
MARSH RICE UNIVERSITY, VANDERBILT
UNIVERSITY, and YALE UNIVERSITY,

Defendants.

Case No.: 1:22-cv-00125

Hon. Matthew F. Kennelly

**PLAINTIFFS' STATEMENT OF COMPLIANCE WITH LOCAL RULE 37.2
REGARDING PLAINTIFFS' MOTION TO COMPEL DEFENDANTS TO PROVIDE
FERPA NOTICES PURSUANT TO THIS COURT'S ORDER REGARDING FERPA
AND THE PRODUCTION OF CERTAIN DOCUMENTS AND INFORMATION**

With respect to Plaintiffs' Motion to Compel Defendants to Provide FERPA Notices Pursuant to this Court's Order Regarding FERPA and the Production of Certain Documents and Information ("Plaintiffs' Motion"), Plaintiffs submit this Statement of Compliance with Local Rule 37.2.

1. As explained in the accompanying Memorandum of Law, Plaintiffs' Motion requests that each Defendant (excluding MIT, Caltech, Chicago and Yale) (collectively, "Motion Defendants") provide notices under the Federal Educational Rights and Privacy Act of 1974 (FERPA), pursuant to this Court's Order Regarding FERPA (Dkt, 231), in the same form as Exhibit A to that Order, to each of the students admitted to that Defendant university and identified by Plaintiffs as an intended recipient of such FERPA Notice. Those notices would advise the students, *inter alia*, that Plaintiffs are asking for this Court to issue an order requiring each Motion Defendant to produce education records containing Personally Identifiable Information that would otherwise be protected from disclosure under FERPA. With respect to the motion described herein, Plaintiffs have complied with Local Rule 37.2 as set forth below:
2. Plaintiffs conferred with counsel for Defendant Vanderbilt by email and phone conference as to Plaintiffs' initial request that Vanderbilt provide FERPA notices to fewer than 20 students. *See* Aug. 17, 2023 Joint Status Report (Dkt. 433) at 4, and Ex. B (emails communications which also reference phone discussions). Vanderbilt refused to comply with Plaintiffs' request and insisted that Plaintiffs "file a motion." (*Id.* at 8). The Court then asked Plaintiffs to file a motion to compel, and for that motion to address any requests for FERPA Notices to other Defendants. *See* Aug. 24, 2023 Hearing Tr. at 30-31.
3. Starting on Sept. 17, Plaintiffs sent emails to each Motion Defendant (including a supplemental email to Vanderbilt), asking that the Defendant, for each student listed in an Appendix to the email:

- (a) Produce the admissions files for each student or, at a minimum, documents sufficient to show each student's academic data (SAT/ACT scores, AP grades, GPA, Class Rank, etc.) as well as any Ratings used to admit or deny students for admission.
 - (b) Locate and produce on a "go get" basis all documents located in the Admissions, President's or Development Offices concerning any donations by each such student's parents (or their capacity to make such donations), including any correspondence with those parents.
4. Each email to each Motion Defendant included an Appendix which listed each student who had attended the Defendant university and to whom Plaintiffs have requested that the Defendant send a FERPA Notice pursuant to this Court's prior Order Regarding FERPA. Each email offered to Meet and Confer with each Defendant, and advised each Defendant that Plaintiffs are "prepared to discuss foregoing the discovery if [Defendant] is willing to enter into certain stipulations that would make the discovery less probative and important for trial." (E.g., Email from Plaintiffs to Georgetown, Sept. 14., 2023, 3:06 PM ET).
5. Most Motion Defendants have not responded to the emails described above, leaving Plaintiffs with no choice but to file this motion. Three Defendants met via phone with Plaintiffs on September 18; two Defendants met with Plaintiffs on Sept. 21; another Defendant met with Plaintiffs today by phone. Those discussions are ongoing but are not expected to proceed further until after the Jewish Holiday of Yom Kippur on Monday, September 25. Similarly, a few Defendants have asked to meet and confer with Plaintiffs this week following Yom Kippur.
6. If any of the meet and confer meetings described in the preceding paragraph affect Plaintiffs' Motion or the relief sought therein, Plaintiffs will promptly advise the

Court. Based on the responses to date, however, Plaintiffs believe that it will be necessary for the Court to address the merits of Plaintiffs' motion with respect to many, if not all, of the Motion Defendants.

Dated: September 25, 2023

By: /s/ Robert D. Gilbert

Robert D. Gilbert
Elpidio Villarreal
Robert S. Raymar
David Copeland
Steven Magnusson
Natasha Zaslove

**GILBERT LITIGATORS &
COUNSELORS, P.C.**

11 Broadway, Suite 615
New York, NY 10004
Phone: (646) 448-5269
rgilbert@gilbertlitigators.com
pdvillarreal@gilbertlitigators.com
rraymar@gilbertlitigators.com
dcopeland@gilbertlitigators.com
smagnusson@gilbertlitigators.com
nzaslove@gilbertlitigators.com

Eric L. Cramer
Caitlin G. Coslett
Ellen Noteware

BERGER MONTAGUE PC
1818 Market Street, Suite 3600
Philadelphia, PA 19103
Tel: 215-875-3000
ecramer@bm.net
ccoslett@bm.net
enoteware@bm.net

Richard Schwartz

BERGER MONTAGUE PC
1720 W Division
Chicago, IL 60622
Tel: 773-257-0255
rschwartz@bm.net

Respectfully Submitted,

/s/ Edward J. Normand

Devin "Vel" Freedman
Edward J. Normand
Peter Bach-y-Rita
Richard Cipolla
**FREEDMAN NORMAND
FRIEDLAND LLP**

99 Park Avenue
Suite 1910
New York, NY 10016
Tel: 646-970-7513
vel@fnf.law
tnormand@fnf.law
pbachyrita@fnf.law
rcipolla@fnf.law

Daniel J. Walker
Robert E. Litan
Hope Brinn
BERGER MONTAGUE PC
2001 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006
Tel: 202-559-9745
rlitan@bm.net
dwalker@bm.net
hbrinn@bm.net

Counsel for Plaintiffs